IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

WP(C).No. 19025 of 2007(M)

PETITIONER:

ANNAKUTTY JOSEPH, HOUSE NO.1/262,
VAYALATTU HOUSE, FORT KOCHI, KOCHI-1.

BY ADV. SRI.P.SANJAY
SRI.A.PARVATHI MENON

RESPONDENTS:

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1. SPECIAL TAHSILDAR(REVENUE RECOVERY),
FORT KOCHI, KOCHI-1.

2. THE SALE TAX OFFICER,
ADDITIONAL SALE TAX OFFICE,
IIND CIRCLE, MATTANCHERY.

3. M/S VEETEEJAY EXPORTS PVT. LTD.,
PALLURUTHY, KOCHI-5.

BY GOVERNMENT PLEADER SRI. MOHAMMED RAFFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

W.P.(C)No. 19025 OF 2007

Dated this the 22nd day of June, 2007

J U D G M E N T

Petitioner is challenging Exhibit P2 demand notice for recovery of arrears of sales tax due from her children. Property originally belonged to the petitioner's husband and after his death, it devolved on the legal heirs, who are mainly defaulter children of the petitioner. However, the petitioner has a life interest and therefore the said property cannot be proceeded against, is her contention. Counsel for the petitioner submits that petitioner is living out of rental income from the properties. Government Pleader submits that arrear amount is Rs.22.87 lakhs. The property is to be necessarily sold in public auction after providing for her entitlement. In order to avoid this contingency, petitioner has requested for three months time for settlement and for deduction of interest. Government had granted amnesty in March, 2004 providing for settlement of liability with reduced interest ranging from 50% to 60%. Considering the complexity of the matter in recovering the

arrears, I feel petitioner can be granted reduction of 50% interest payable under Section 23 (3) provided the entire arrears with 50% interest is paid on or before 30th September, 2007.

Writ Petition is disposed of directing respondents 2 & 3 not to proceed with any action till 30th September, 2007. However, the respondents 1 and 2 will give a statement with 50% interest payable under Section 23 (3) within two weeks from production of a copy of this judgment for the petitioner to arrange for payment. Moreover, if payment is made by 30th September, no collection charges also will be recovered from the petitioner. However, if the petitioner commits default, there will be a direction to the petitioner to hand over possession of the property to the 1st respondent on 1st October itself for sale of property as time is granted only on petitioner's request. If default is committed waiver of interest will stand automatically vacated and full interest can be recovered after default.

C.N.RAMACHANDRAN NAIR,
JUDGE

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